

1 JEFF MCCUTCHEN

2 IN THE UNITED STATES DISTRICT COURT

3 FOR THE NORTHERN DISTRICT OF MISSISSIPPI

4 OXFORD DIVISION

5
6 JOHN RASH,

7 Plaintiff,

8 v.

CIVIL ACTION NO.:
3:20-cv-224-NBB-RP

9
10 LAFAYETTE COUNTY,
MISSISSIPPI,

11 Defendant.
12
13
14

15 VIDEOTAPED REMOTE DEPOSITION OF

16 JEFF MCCUTCHEN

17 Thursday, January 7, 2021

18 9:07 a.m. Central Standard Time
19
20
21
22

23 Reported by:

24 GRETA H. DUCKETT, CCR, RPR, CRR, CVR-S, RVR-M-S

25 JOB NO.: 188328

DEFENDANT'S
EXHIBIT

J

1 JEFF MCCUTCHEN

2 Reporting, Inc., headquartered at
3 228 East 45th Street, New York, New
4 York. The court reporter is Greta
5 Duckett, in association with TSG
6 Reporting.

7 Counsel, please introduce
8 yourselves.

9 (Counsel stated appearances
10 for the record.)

11 THE VIDEOGRAPHER: All
12 right. Thank you, Counselors.

13 Will the court reporter
14 please swear in the witness?

15 (Statement by the court
16 reporter.)

17 JEFF MCCUTCHEN,

18 the witness, having first been duly
19 sworn to speak the truth, the whole truth and
20 nothing but the truth, testified as follows:

21 EXAMINATION

22 BY MR. YOUNGWOOD:

23 Q. Chief McCutchen, I'm going to
24 address you as Chief McCutchen, unless you
25 prefer to be addressed otherwise.

1 JEFF MCCUTCHEN

2 Q. What -- you don't have to tell me
3 the name of the case, but what was the general
4 nature of the proceeding?

5 A. It was a lawsuit involving a wreck
6 with one of our officers.

7 Q. Like, a car accident or something?

8 A. Yes, sir.

9 Q. And I'm going to assume you've
10 testified from time to time in court in
11 proceedings?

12 A. Yes, sir.

13 Q. Okay. And those are generally
14 proceedings associated with your duties as a
15 law enforcement officer?

16 A. Yes, sir.

17 Q. Okay. I know that you're currently
18 the chief of the Oxford police force, and I
19 think you've had that position either on an
20 interim or permanent basis, if I'm correct,
21 since February of 2019?

22 A. Yes, sir.

23 Q. Okay. When did you become -- when
24 did the title switch from interim to full-time
25 or permanent, whatever the right way to say it

1 JEFF MCCUTCHEN

2 is?

3 A. I believe January of 2020.

4 Q. Okay. And prior to assuming the
5 role as interim police chief, what position did
6 you have?

7 A. Major of operations.

8 Q. And how long did you hold that
9 position, sir?

10 A. From 2014 until 2019.

11 Q. Okay. And prior to that, what did
12 you do?

13 A. Criminal investigator.

14 Q. Again, for the Oxford police force?

15 A. Yes, sir.

16 Q. How long were you doing that?

17 A. I believe from 2008 to 2014.

18 Q. Okay. And prior to that, sir?

19 A. DUI officer with the Oxford Police
20 Department.

21 Q. And for how long prior to 2008 did
22 you have that position?

23 A. About six months, 2007, for about
24 six or eight months.

25 Q. Okay. And prior to that, sir?

1 JEFF MCCUTCHEN

2 A. Patrol officer with the Oxford
3 Police Department.

4 Q. And how long did you hold that
5 position, or when did you start that position?

6 A. From 2005 until 2007, sometime in
7 2007.

8 Q. Okay. And it was 2007 when you
9 became the DUI -- or a DUI officer?

10 A. Yes, sir.

11 Q. Okay. And how about before 2005?

12 A. In 2003, the Batesville Police
13 Department hired me as a patrol officer.

14 Q. Okay. So 2005 is when you started
15 with Oxford; is that right?

16 A. Yes, sir.

17 Q. Okay. So, basically, 15, 16 years,
18 you've been working for the Oxford Police
19 Department?

20 A. Yes, sir.

21 Q. Okay. And so fair to say you're
22 fairly familiar with the Oxford area in the
23 course of your duties?

24 A. Yes, sir.

25 Q. Okay. Did you grow up in the area,

1 JEFF MCCUTCHEN

2 Q. Okay. And you started, you said,
3 in Two Thousand- -- I'm sorry -- 1999, you
4 graduated from high school in '99 or
5 thereabouts?

6 A. Yes, sir.

7 Q. Okay. Let's talk a little bit
8 about the Oxford police force today. How many
9 personnel are under your command?

10 A. Around 94. That's total officers
11 and civilian.

12 Q. Okay. And how many of those 94 are
13 officers, as opposed to civilians?

14 A. 80. 80 officers.

15 Q. Okay. And do you have a sense of
16 what the land area is that you're in charge of
17 policing?

18 A. Our jurisdictional property?

19 Q. Yes.

20 A. Yes, sir.

21 Q. What is that?

22 A. We cover -- really, I guess, the
23 four major boundaries would be 7 North,
24 Highway 7 North, just past Highway 30;
25 Highway 7 South just past County Road 401;

1 JEFF MCCUTCHEN

2 Highway 6 eastbound just past County Road 406;
3 and then Highway 6 westbound just past -- or
4 just before Wellsgate subdivision.

5 Q. And is that synonymous with the
6 geographic boundaries of the city of Oxford, or
7 is it in some way different than that?

8 A. No, sir. That's our city limits.

9 Q. Okay. Now, within the city, there
10 are some places that are county property; is
11 that right?

12 A. Yes, sir.

13 Q. And one of them -- we'll get to
14 this, obviously, a little bit later -- is the
15 county courthouse, correct?

16 A. Yes, sir.

17 Q. Okay. What is your jurisdiction
18 over county property that is within the city
19 limits?

20 A. We don't have jurisdiction over
21 county property.

22 Q. Okay. And what does that mean? If
23 you were to, say, see an incident on the
24 courthouse lawn, what are the abilities of your
25 officers to assist with that?

1 JEFF MCCUTCHEN

2 A. It ultimately depends. It depends
3 on the severity of the incident. You know, if
4 we see a violent act, then we intervene. If
5 it's something that we can stand by, we
6 typically call the sheriff's department and
7 give them notice. And then -- depending on
8 where they're at and things like that. But we
9 only step in unless it's something of exigent
10 circumstances.

11 Q. Okay. Other than the courthouse
12 grounds, what other county grounds are within
13 the city limits?

14 A. You have the chancery building, you
15 also have a county property out on -- out off
16 of Highway 6 East that has multiple buildings.
17 It also has a municipal county courthouse there
18 with an arena. We have the Lafayette County
19 School District that has just been annexed in.
20 And I'm not -- that's the ones that's coming
21 off the top of my head.

22 Q. Okay. If we could turn to tab 42,
23 which we'll mark as Exhibit 42. So that,
24 hopefully, serves in the binder you were
25 provided. I'll give you a moment to find it.

1 JEFF MCCUTCHEN

2 A. Okay.

3 (Technical discussion.)

4 (Exhibit 42 was marked for
5 identification.)

6 BY MR. YOUNGWOOD:

7 Q. So this is tab 42 of the binder.
8 It's being marked as Exhibit 42 to your
9 deposition. It's a series of photographs. If
10 we just flip through them for a moment.

11 My question to you is: Do you
12 recognize these as different photos taken in
13 and around the courthouse grounds, the
14 Lafayette County Courthouse grounds?

15 A. Yes, sir.

16 Q. Okay. Are you aware, in your time
17 serving for the Oxford Police Department, of
18 any incidents of violence that have taken place
19 on the county courthouse grounds?

20 A. Specifically, no. Not off the top
21 of my head.

22 Q. Okay. And are you aware of any
23 incidents that have taken place on the
24 courthouse grounds where Oxford police officers
25 have had a need to intervene and go onto the

1 JEFF MCCUTCHEN

2 courthouse grounds?

3 A. Yes, sir. There have been
4 incidents where we have jointly worked with the
5 County or -- or stood by.

6 Q. Okay. Can you tell me what you
7 recall of those?

8 A. You know, we've had -- we've had
9 different events, whether it was demonstrations
10 or large gatherings, that our office may have
11 actually been on site first or received radio
12 traffic. Specifically, you know, this summer,
13 we've had incidents where our staff had to
14 either stand by or work jointly with the
15 County. Again, a lot of it is -- was over
16 demonstrations. We've -- we've had people had,
17 you know, things thrown at them or events such
18 as that happen where we were either standing by
19 or, again, arriving first.

20 Q. So tell me about that, your
21 coordination between the City and the County.
22 How does that coordination come about? How
23 does it work?

24 A. As far as a spontaneous event or a
25 scheduled event?

1 JEFF MCCUTCHEN

2 Q. Let's do them separately. Why
3 don't we start with a scheduled event?

4 A. A scheduled event, typically, I
5 would speak with the sheriff and find out the
6 logistics of what was happening on their
7 property and if they had any needs of our
8 staff. Typically, if there's an event that is
9 happening on their property, it may impact the
10 location just -- I guess that would be east of
11 that property around our city hall. So even if
12 we didn't necessarily intervene, we would
13 typically staff something on the other side.

14 Q. Okay. And maybe this is what
15 you're doing. In terms of specific, you know,
16 planned events that involve the town square or
17 the courthouse, can you think of examples where
18 you and the County have coordinated with
19 respect to an event?

20 A. Yes, sir. Especially this summer.
21 We had several events, mostly of larger scale,
22 that neither our staff could manage alone or
23 their staff. You know, probably five to seven
24 events throughout 2020 that we prepared and
25 planned jointly with.

1 JEFF MCCUTCHEN

2 resources.

3 Q. Okay. But you can't recall any
4 instances -- let's just keep it in the summer
5 of 2020 -- where you didn't believe you had the
6 resources to provide assistance?

7 MR. O'DONNELL: Object to
8 form.

9 A. I'm not --

10 MR. O'DONNELL: You can
11 answer. Go ahead.

12 A. I'm -- I'm not certain that we did
13 or we didn't. But there would have been
14 instances, if we had a permit scheduled, all of
15 our resources would have been specifically
16 tasked for that one event.

17 Q. Okay. But what I'm asking is,
18 if -- if you can recall an instance where, for
19 example, Sheriff East contacted you and said,
20 We have a request for an event; is there
21 something about the activity of your department
22 that would prevent us from having such an
23 event, you can't recall ever telling him
24 that -- that, no, we're too busy; we wouldn't
25 be able to help?

1 JEFF MCCUTCHEN

2 A. I know we discussed an event that
3 we already had scheduled. So we had a permit,
4 and they contacted us about a potential county
5 permit. And I told him, for our police force,
6 we were tasked for this one event for this day.
7 And so, you know, no guarantees that we could
8 assist or help in that matter. And our streets
9 would be blocked. Because I believe ours was a
10 march. So, for us, we would be completely
11 tasked for that one event.

12 Q. What -- what event are you thinking
13 of?

14 A. We had -- I believe the -- the name
15 of the event was LO Unity. It was coordinated
16 by some University of Mississippi football
17 players. That was a scheduled event that would
18 take place in front of city hall that led to a
19 march. And so we would have that tasked
20 pre-event, during the event, and post-event.

21 Q. Okay. Do you remember when that
22 was, sir?

23 A. Not specifically the day.

24 Q. Okay. Summer of 2020?

25 A. Yes, sir.

1 JEFF MCCUTCHEN

2 separate from protests or other marches or
3 activity like that, have you observed how
4 citizens use the courthouse grounds in your
5 time on the Oxford police force?

6 A. Are we speaking specifically after
7 hours?

8 Q. Well, let's start during the day,
9 and then we'll go to the evening, perhaps. And
10 perhaps it changes during the week and the
11 weekend. I understand that too.

12 A. Yes, sir. I would say, during the
13 daytime, it's typically used as business for
14 those coming and going, or court sessions.

15 Q. There are multiple benches within
16 the grounds? It --

17 A. Yes, sir.

18 Q. -- depicted some of them.

19 And people might congregate on
20 those benches?

21 A. Yes, sir.

22 Q. Okay. They might have a cup of
23 coffee or a meal, like a sandwich or something,
24 perhaps, on the --

25 A. Yes, sir.

1 JEFF MCCUTCHEN

2 Q. Okay. And how about in the
3 evening? We've discussed that there's no
4 closing of the gates. Do people go onto the
5 courthouse grounds in the evening?

6 A. From time to time, yes, sir.

7 Q. Okay. Your officers have never
8 prevented somebody from going onto the
9 courthouse grounds in the evening, have they?

10 A. No, sir.

11 Q. You're not aware of any arrests,
12 for example, made because somebody walked onto
13 the courthouse grounds after -- after dusk?

14 A. No, sir.

15 Q. You don't see it as a safety hazard
16 that somebody would be on the courthouse
17 grounds after dusk, do you?

18 MR. O'DONNELL: Object to
19 form.

20 A. That's something that I would not
21 be aware of as far as safety concerns or
22 information that the County may have.

23 Q. Okay. But from what you've
24 observed -- and I recognize the difference in
25 the jurisdiction. But from what you've

1 JEFF MCCUTCHEN

2 observed, you've never seen safety incidents
3 arise out of people being on the courthouse
4 grounds after dusk?

5 A. It --

6 MR. O'DONNELL: Object to
7 form.

8 A. It would depend. Again, depending
9 on the size of the gathering. It would not be
10 uncommon for us to put a phone call in to the
11 sheriff's department to notify them or stand by
12 until a deputy arrives.

13 Q. Okay. Can you think of any
14 incidents where you did such a thing on the --
15 with respect to the courthouse grounds?

16 A. Yeah. Specifically this summer,
17 with different gatherings or disruptions on
18 their property, we would contact them or stand
19 by or at least moderate until we could get
20 some -- a deputy on scene.

21 Q. Okay. Are you aware of any of
22 those incidents resulting in arrests?

23 A. Not with our -- with our officers.

24 Q. Well, are you aware of the County
25 sheriff's department arresting anyone for being

1 JEFF MCCUTCHEN

2 routinely working that area. The rest of it, I
3 believe, was either archived data in our CAD
4 system or videos that would have been -- would
5 have been pulled by the City.

6 Q. Okay. So I have this piece of
7 paper that's the last page of this exhibit in
8 this tab 36. I'm going to want to walk through
9 that with you in a moment. But other than this
10 piece of paper, did you provide anything to the
11 County or to Sheriff East in connection with
12 this lawsuit?

13 A. I believe all we provided was the
14 documents of the data.

15 Q. So I'm trying to understand that.
16 By "documents of the data," do you mean this
17 piece of paper, or do you mean backup to this
18 piece of paper?

19 A. Is there -- I have page 1 and
20 page 2. Do you have something else?

21 Q. I have in this tab a two-page
22 email, right, which is what we've just been
23 looking at.

24 A. Right.

25 Q. Just the -- and separated by a

1 JEFF MCCUTCHEN

2 page -- I have a one-page document that looks
3 like this (indicating).

4 Is it not -- I was wondering if you
5 were looking at the --

6 (Simultaneous speakers.)

7 A. Yes.

8 Q. It's five numbered items.

9 A. Yes, sir.

10 Q. Okay. So that -- that's all I -- I
11 don't have two pages of data; I just have this
12 one page. Is that what you mean?

13 A. Yes, sir.

14 Q. Okay. Other than this page, which
15 we will get to, is there anything else that
16 you, to your recollection -- you or the city
17 police department -- have provided to the
18 County that you understand to be in connection
19 with this litigation?

20 A. The only other thing that I could
21 think of would have -- could have potentially
22 been a document file. And I -- this could be
23 it. Again, Ms. Valerie shared that with them.
24 But there could have been an Excel sheet on --
25 because I know that in the email, we replied

1 JEFF MCCUTCHEN

2 that it's a whole lot of data. So I'm not --

3 Q. That's -- yeah. Yeah.

4 A. I'm not sure if this was the data
5 that they were referring to or if they shared a
6 file to him.

7 Q. Okay. And who -- who would have
8 actually sent this one page that we have? You
9 or someone else?

10 A. It would have either been Deputy
11 Chief Maiden or Ms. Valerie Booth.

12 Q. And who do you think they would
13 have sent it to?

14 A. I believe it was to Ms. Cathy.

15 Q. Okay. And if there was something
16 else they sent, like a data file, some zip
17 file, something, it would have been from one of
18 those two individuals, you think, likely to
19 Ms. Cathy?

20 A. Yes, sir.

21 Q. Okay. Did you review this sheet
22 before it went?

23 A. Not specifically this sheet. The
24 deputy chief and I discussed it. But I -- this
25 is the first time I can remember looking at it.

1 JEFF MCCUTCHEN

2 Q. Okay. One of the things you
3 indicated in your answer four or five minutes
4 ago was a discussion of how many individuals
5 are assigned to, I think you said, patrol the
6 downtown area. Do you remember you -- you --

7 Do I understand that correctly? It
8 doesn't matter if you said it before. Do I
9 understand that that was one of the things you
10 understood you were being asked for?

11 A. Yes, sir. That was one of their
12 questions.

13 Q. Okay. And is that information that
14 you gave?

15 A. Yes, sir. That appears to be
16 question 3.

17 Q. Okay. What I don't see in
18 question 3 is, for example, specific -- well,
19 it talks about the football games. But this --
20 I'm not meaning to say it was or wasn't
21 provided. This is the response to that
22 question; nothing else?

23 A. Yes, sir.

24 Q. Okay. The data under number 1, All
25 data pertaining to arrests in the downtown area

1 JEFF MCCUTCHEN

2 for the last five years, do you know where this
3 information came from?

4 A. That would have come from our
5 computer system.

6 Q. Okay. And what does "downtown
7 area" mean?

8 A. For us, that's a geographical area
9 consisting of the boundaries outside of what we
10 call the square, which would connect University
11 Avenue and South Lamar, Ninth Street and
12 Jackson Avenue, North Lamar and Jefferson, and
13 then East Jackson and maybe 13th Street.

14 Q. So an area meaningfully larger than
15 the square itself?

16 A. Yes, sir. There are some outside
17 parameters that we cover.

18 Q. Any -- I mean, we can look at a map
19 and do the math, perhaps. But any sense of
20 what percentage of what you define to be the
21 downtown area is the square itself?

22 A. I mean, that's the majority.

23 Q. Okay. And the courthouse, of
24 course, is only a portion of the square?

25 A. Yes, sir.

1 JEFF MCCUTCHEN

2 Q. Okay. Of these arrests that you
3 list, were any made on the courthouse grounds
4 or on the grounds that constitute the
5 Confederate statue outside the courthouse?

6 A. No, sir.

7 Q. Okay. Do you have a -- do you have
8 a further breakdown of the nature of these
9 arrests?

10 A. No, sir.

11 Q. Okay. Do you know if any of these
12 arrests related to permitted activities?

13 A. Not to my knowledge.

14 Q. Do you know what percentage of
15 these arrests took place after dark?

16 A. I would assume the majority of
17 them.

18 Q. Okay. And is that -- and why do
19 you assume that?

20 A. That's typically where we have the
21 majority of our violence, is after dark. We
22 have larger crowds after dark. We have a --
23 everyone condenses in a tighter circle of the
24 square. And, again, we have more police
25 presence up there to monitor that.

1 JEFF MCCUTCHEN

2 Q. And where is that tighter area of
3 the square that they condense?

4 A. 10th Street. 10th Street, Jackson
5 Avenue, 10th and Van Buren, and then Van Buren
6 just to the city hall side. Again, that's
7 probably -- it's close to 13th Street. So,
8 really, just the inner circle of the square and
9 a couple hundred feet to each side of the
10 square.

11 Q. Okay. And is that because that's
12 where the bars and restaurants are congregated?

13 A. Yes, sir. But it's also some of
14 the larger parking areas and the garage and
15 places like that.

16 Q. Okay. So it's -- it's -- to just
17 use a shorthand, it's the night life that
18 somewhat brings people in to congregate, and
19 sometimes trouble erupts?

20 A. Yes, sir.

21 Q. Number 2 is -- is concerning motor
22 vehicle and pedestrian wrecks. I'm
23 sorry. Strike that. I just want to go back to
24 number 1 for a minute.

25 Do you know how the year 2020

1 JEFF MCCUTCHEN

2 in some way?

3 A. I believe so, yes, sir. We
4 typically average, for the city, well over a
5 thousand crashes a year. So I would assume
6 this is specifically for those roads in
7 conjunction with the downtown area.

8 Q. Okay. So you typically average
9 more than a thousand, but the highest number
10 here for any given year is 58, right?

11 A. Yes.

12 Q. And not holding you to the
13 thousand, but that would suggest that -- let's
14 just take 2017 -- that the number -- the
15 percentage of crashes taking place in the
16 downtown area were five or six percent of the
17 total city crashes?

18 A. Yes, sir. Without looking at the
19 data, yes, sir.

20 Q. Okay.

21 A. It's lower.

22 Q. And I guess I'm curious. The
23 nature of the crash that's going to take place
24 in the downtown area, I assume cars are going
25 at a slower speed in the downtown area than

1 JEFF MCCUTCHEN

2 BY MR. YOUNGWOOD:

3 Q. Okay. So these appear to be the --
4 the guidelines for issuing -- the ordinance for
5 issuing permits in the city. Is this something
6 that you're familiar with?

7 A. Yes, sir.

8 Q. Okay. And did you play any role in
9 drafting this or creating it?

10 A. Not the original, no, sir.

11 Q. Okay. Have you played a role in
12 changes to it in the years that you've been
13 chief?

14 A. Yes, sir. We made a modification
15 to the length of how far out you can -- you can
16 apply for a permit, as far as a timing
17 standpoint. I think we reduced that from 30
18 days to 14. And then we changed some language
19 on the type of instruments that you can carry
20 while demonstrating.

21 Q. Okay. And when was the change made
22 from 30 to 15?

23 A. It was in --

24 Q. I thought -- maybe you said -- I
25 meant -- sorry. Did you say 15 or 14?

1 JEFF MCCUTCHEN

2 A. I believe it was 14.

3 Q. Okay. 30 to 14, then?

4 A. That would have been in 2020. That
5 would have been this summer.

6 Q. Do you remember when in the summer?

7 A. No, sir. Not specifically.

8 Q. Was that in any way done in
9 conjunction with the County changing their
10 policy to 14?

11 A. Yes, sir. I believe those
12 conversations we had jointly.

13 Q. Were you part of those
14 conversations?

15 A. I was a part of the initial
16 conversation when we met with the university
17 and the County.

18 Q. Okay. So it was a three-way
19 conversation, then?

20 A. Yes, sir. It was -- it was a
21 conversation that we had generalizing, trying
22 to keep information flowing to coordinate our
23 agencies.

24 Q. When in the summer, as best you can
25 recall, did that take place?

1 JEFF MCCUTCHEN

2 A. Typically, during the daytime, his
3 staff is in and out of that area equally. He's
4 got more staff during the daytime, and they
5 were able to monitor that better than after
6 hours.

7 Q. Okay. Why does he have more staff
8 around the courthouse during the daytime than
9 at night, if you know?

10 A. They manage the courthouse, and so
11 there are court proceedings happening
12 throughout the day. He's got detectives that
13 are out, more personnel that are out
14 specifically during the daytime. Generally,
15 it's deputies that are working the road at
16 night is all that they have.

17 Q. Okay. Well, how about on a
18 Saturday?

19 A. I would assume Saturday would be
20 specifically just the deputies that are working
21 the road. So if we noticed that there were
22 multiple people up there, we would generally
23 give them a call.

24 Q. Okay. So if you saw a group of
25 five on a Wednesday at noon, you wouldn't give

1 JEFF MCCUTCHEN

2 a call. If you saw a group of five at noon on
3 Saturday, your deputies might give a call?

4 A. Yes, sir.

5 Q. Is that tracked in some way, giving
6 a call that a certain number of people are on
7 the courthouse grounds? Or is the call just
8 made, and there's no record?

9 A. It's probably a phone call. And,
10 again, that may be notified from my staff to --
11 for me to call him, or it could be one of our
12 staff members contacting their on-duty
13 supervisor.

14 Q. Okay. So -- so it's your
15 understanding that five people congregating on
16 the courthouse grounds during the day is a
17 violation of County policy?

18 MR. O'DONNELL: Object to
19 form.

20 A. No. That's not my understanding.
21 I know that that business -- that -- that
22 operates as a business and a courthouse. So
23 there would be more people coming and going
24 throughout the day.

25 Q. Okay. But how about on a weekend?

1 JEFF MCCUTCHEN

2 Five people standing there having a picnic on
3 the lawn on a weekend. Is that a -- your
4 understanding, a violation of County policy?

5 A. I don't know that they deem it as a
6 violation, and that's why we directly report it
7 to them.

8 Q. Okay. And are you aware of them
9 taking any actions with respect to the people
10 gathering in response to any of the calls that
11 your office has made to them?

12 A. I don't know of anything
13 specifically that they've done. I do know that
14 we have notified them of multiple people there,
15 and their office handles that. Whether that's
16 removal or giving them additional options, I
17 wouldn't know.

18 Q. Okay. And do you have safety
19 concerns associated with more than four people
20 gathering on the courthouse grounds?

21 A. It all depends: time of day,
22 what's going on, traffic patterns. Again,
23 that's -- we'll try to manage the street and
24 everything adjacent to that, and we give them
25 the call on how they determine safety on their

1 JEFF MCCUTCHEN

2 gain any understanding as to why these various
3 policy changes were being applied to the
4 courthouse grounds, as opposed to all county
5 property?

6 A. Yes, sir. Mostly around the
7 ability to provide security there. Again, I'm
8 not sure how many deputies they run, but it's
9 600-and-some-odd square miles, and I'm assuming
10 six to eight deputies. So response time and
11 the ability to monitor that is definitely
12 different for them than for us.

13 Q. What is different about the
14 courthouse for them, as opposed to any other
15 small plot of land within the county?

16 A. I'm not sure, unless it's, you
17 know, that being centrally located in the city
18 and coming through the city limits, slowing
19 them down as far as a response time versus a
20 piece of property in the county with open road.

21 Q. But there are -- you testified
22 earlier, there are other -- there's other
23 parcels of county property within the city,
24 right?

25 A. Yes, sir.

1 JEFF MCCUTCHEN

2 Q. Would the rationale be any
3 different for them in terms of the sheriff's
4 office's access to them than it would be for
5 the courthouse grounds?

6 A. I'm not certain.

7 Q. And your conversations with -- with
8 Sheriff East concerning changes in policies to
9 the courthouse grounds and the area approximate
10 to the statue touch on any of the political
11 movements that were exhibited this summer of
12 2020?

13 A. No, sir. Again, I think they were
14 following a very similar policy that we were.
15 We were trying to, you know, give our citizens,
16 you know -- not different standards,
17 essentially.

18 Q. By "not different standards," you
19 mean that the City and the County wanted to
20 have the same standard?

21 A. From a timing standpoint as to when
22 to get your permit in.

23 Q. Okay. But in terms of the focus of
24 the County's changes in policy on the
25 courthouse, did the subject, for example, of

1 JEFF MCCUTCHEN

2 relating to the courthouse grounds after --
3 starting 30 minutes before dusk?

4 A. Are you asking did he provide me
5 any data?

6 Q. Any -- any overall data or -- or
7 reference to a specific incident.

8 A. We've had several incidents -- and
9 I don't have any dates in front of me -- where
10 our staff responded or intercepted disturbances
11 there. And if it's in -- after normal working
12 hours, I mean, you could potentially look at a
13 15- to 40-minute window before they could
14 respond. So I know we've had those
15 conversations.

16 Q. Okay. And you can't remember a
17 specific incident?

18 A. No, sir. Those would be things --
19 you know, potentially look back on in our
20 system. But it has happened from time to time.

21 Q. But you've had incidents elsewhere
22 in the city at night from time to time, right?

23 A. Yes, sir.

24 Q. Okay. In fact, most of your
25 incidents take place elsewhere in the city at

1 JEFF MCCUTCHEN

2 night, right?

3 MR. O'DONNELL: Object to
4 form.

5 A. When you -- when you're saying
6 "most incidents," what are you referencing to?

7 Q. Well, in the downtown area, most of
8 them take place at night, right? I think you
9 said that before.

10 MR. O'DONNELL: Same
11 objection.

12 A. Yes, sir.

13 Q. When is dusk?

14 A. 30 minutes before sunset.

15 Q. So dusk is 30 minutes before
16 sunset?

17 A. That's my understanding.

18 Q. Okay. So 30 minutes before dusk
19 would be an hour before sunset, then?

20 A. I guess so.

21 Q. Okay. And by definition, sunset
22 would change based on the day of the year,
23 right?

24 A. Yes, sir.

25 Q. Is it the time of day -- let's not

1 JEFF MCCUTCHEN

2 picture, sir, of the statue with a projection
3 on it saying, Take it down.

4 Do you remember when this occurred,
5 this summer?

6 A. I've actually never seen that
7 photo, but I do believe I understand what
8 you're referencing to.

9 Q. Okay. Did you witness the event
10 yourself?

11 A. No, sir.

12 Q. Okay. You were informed of the
13 event?

14 A. If that -- if this is the one where
15 someone was parked and then shined the
16 projection across the road, then yes, sir.

17 Q. How did you learn of it?

18 A. I was contacted by one of our staff
19 members.

20 Q. Okay. Was any police action taken
21 with respect to it?

22 A. As far as enforcement, no, sir. We
23 did not make any arrests or citations issued.

24 Q. Okay. Any -- any violence erupt
25 from this event that's depicted in this

1 JEFF MCCUTCHEN

2 picture?

3 A. No, sir.

4 Q. Okay. Or car collisions or
5 anything like that in the area surrounding the
6 statue?

7 A. Not that I'm aware of.

8 Q. Okay. Or any other harm to public
9 safety take place associated with this event?

10 A. I do believe we asked the
11 individual not to shine it across that direct
12 roadway into drivers' eyes.

13 Q. Okay. And did they then cease
14 their behavior, or did they keep it up?

15 A. They moved on.

16 Q. Okay. Do you know how long it was
17 up for?

18 A. No, sir.

19 Q. Okay. But during the time it was
20 up and perhaps projecting across the road, as
21 you say, you're not aware of any car accidents
22 or any other events that harmed public safety
23 because of it?

24 A. No, sir.

25 Q. Okay. If you could turn to tab 44,

1. **All data pertaining to arrest in the downtown area for the last 5 year.**

2020 there were 35 arrest as of November 23, 2020.

2019 there were 78 arrest

2018 there were 72 arrest

2017 there were 110 arrest

2016 there were 98 arrest

2. **All wrecks involving motor vehicle and pedestrians in the last 5 years.**

2020 there were 21 motor vehicle accidents as of November 23, 2020.

2019 there were 21 motor vehicle accidents

2018 there were 25 motor vehicle accidents

2017 there were 58 motor vehicle accidents

2016 there were 43 motor vehicle accidents

3. **How many officers are routinely assigned to patrol the downtown area and on average how many on a home football game.**

- a. There is a Downtown shift that covers the Square area, this shift is staffed by seven patrol offices who work ten hour shifts five days a week.
- b. The Downtown shift hours of deployment is sometimes affected by the events and time of the events in and around the square.
- c. As for ball games and special events, the number of additional personnel utilized to provide service to the Square varies depending on a number of factors, i.e. team standing, popularity of event and day of the week.
- d. We have had as many as twenty-five additional offices beside the Downtown shift and as few as five.

4. **What are your current safety concerns with the downtown area? (lighting, traffic, overcrowding, violence, etc. etc.)**

- a. There are lighting issues in the area of North Lamar and East Van Buren Ave. these areas have limited lighting and are a safety concern.
- b. Night time pedestrian traffic is high and pedestrians often walk out into traffic without looking or checking to see if its clear for them.
- c. High volume events and weekend (crowds, traffic, unruly customers, etc.) produces lots of activity in and around the square. Because of this, many resources have to be utilized in this area which limits resources available to the rest of the city,
- d. In the pass few years there have bee three shootings in this area.
- e. Vehicular traffic is heavy at times and sometimes require us to close off streets, additionally vehicles often stop in the middle of the road causing safety issues for both pedestrian and vehicles

5. **Would it be possible to get videos that your department have saved showing traffic conditions around the downtown area during week day nights and on weekend ball games and non-ball game weekends. If any of those videos capture the County Court house grounds that would be great to have.**

The police department does not have any video but the City's EMA Director may have some on his system.

From: Joey East <jeast@lafayettesheriff.net>
Sent: Wednesday, November 18, 2020 10:38 AM
To: Jeff Mccutchen <jmccutchen@oxfordpolice.net>
Subject: Re: data

Thank you

Sent from my iPhone

On Nov 18, 2020, at 10:33 AM, Jeff Mccutchen <jmccutchen@oxfordpolice.net> wrote:

Yes sir. Ms. Val is reaching out to Ms. Cathy now. It's quite a bit of data.

On Nov 18, 2020, at 10:19 AM, Joey East <jeast@lafayettesheriff.net> wrote:

Chief,
I just wanted to check back with you to see if you were able to get the information requested below.

Thanks

Joey

From: Jeff Mccutchen <jmccutchen@oxfordpolice.net>
Sent: Friday, October 9, 2020 4:03 PM
To: Joey East <jeast@lafayettesheriff.net>
Subject: Re: data

I'll get with Ms. Val and get them pulled as quick as we can.

From: Joey East <jeast@lafayettesheriff.net>
Sent: Friday, October 9, 2020 2:36 PM
To: Jeff Mccutchen <jmccutchen@oxfordpolice.net>
Subject: Re: data

Next two weeks would be great but I totally understand if that not possible.

Sent from my iPhone

On Oct 9, 2020, at 1:56 PM, Jeff Mccutchen
<jmccutchen@oxfordpolice.net> wrote:

Yes sir, we'll work on it. When do you need it by?

Jeff McCutchen

On Oct 9, 2020, at 1:02 PM, Joey East
<jeast@lafayettesheriff.net> wrote:

Chief McCutchen,

Would it be possible for your agency to supply us with data about the downtown area? As you know we are preparing for a case in federal court and this information could possibly be useful.

1. All data pertaining to arrest in the downtown area for the last 5 year.
2. All wrecks involving motor vehicle and pedestrians in the last 5 years
3. How many officers are routinely assign to patrol the downtown area and on average how many on a home football game
4. What are your current safety concerns with the downtown area? (lighting, traffic, overcrowding, violence, etc. etc.)
5. Would it be possible to get videos that your department have saved showing traffic conditions around the downtown area during week day nights and on weekend ball games and non-ball game weekends. If any of those videos capture the County Court house grounds that would be great to have.

Chief

I understand that Covid has slowed traffic and businesses traffic down over the last several months so this information I am requesting can be based on the last several years and your knowledge and experience of the area.

Thank you

Joey

<image001.jpg>